

## **REMARKS**

Reconsideration of the above identified patent application is hereby respectfully requested in view of the foregoing amendments and following remarks. Claims 1-20 remain in the case.

A petition and Fee for an appropriate Extension of Time under 37 CFR 1.136(a) and payment thereof is attached hereto.

1-2. It is noted that the Examiner is considering the IDS and application.

3. The applicant and undersigned continue to check the specification for correction of any errors.

4-9. Claims 1-20 were rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Pub. No. 2002/0194298, pending patent application serial number 09/884,693.

A terminal disclaimer, in triplicate, to obviate a double patenting rejection over a pending reference application and fee thereof is enclosed.

Accordingly, the rejection is believed to be overcome and reconsideration is respectfully requested.

Furthermore, traverse is taken with regard to the assertion by the Examiner that the instant invention is obvious over claims 1-20 of the above mentioned related application. The nature of the audio data appertains directly to the problem that is being solved. Music to relax and calm a listener solves a different problem than does a narrative intended to edify the listener.

It is generally well accepted that the human brain and especially that of infants responds differently to music than to speech. Melody and lyric have a calming effect not found in ordinary speech. Infants too young to appreciate the meaning behind stories and complex speech patterns nevertheless respond to the sounds of music in remarkable ways. The repetitive patterns of music have been used for a long time to lull infants asleep when ordinary speech would only retain their interest and alertness.

The applicant believes that there is application for speech and story and also for music and that while these applications may include overlap, they also often differ. There are benefits from listening to music that are not available with speech and the opposite is also true. Therefore, it is believed that an assertion of obviousness is born from hindsight of the applicants inventions as opposed to a clear delineation in purpose and benefit.

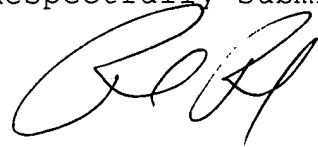
Accordingly, it is believed that the rejection is overcome and reconsideration is respectfully requested on the merits thereof.

10-12. Contact information for the Examiner and Supervisor and PAIR are noted.

As all remaining claims 1-20 appear to be in condition of allowance, reconsideration thereof is respectfully requested, and a notice of allowance is courteously urged at the earliest time.

The applicant appreciates the opportunity to communicate by telephone with the Examiner if necessary. Please continue to direct all correspondence to the correspondence address and telephone as shown below.

Respectfully submitted,

 12-27-01

Risto A. Rinne, Jr.  
Reg. # 37,055

2173 East Francisco Blvd.  
Suite E  
San Rafael, CA 94901

1-415-457-6933